Special 4-Page Issue on Lawless Police Practices

Latest Civil Rights Commission Report on "Justice" Lifts Curtain On Some Dark and Painful Areas

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The Negro, the FBI and Police Brutality

We turn aside this week from more resounding events to devote this letter to the report on "Justice" by the U. S. Commission on Civil Rights. The Berlin crisis will be with us for many months, Latin American convulsions for many years. But this newly released study of police brutality, particularly to Negroes, offers an opportunity that may not occur again for a long time. The report seeks to turn attention to a dark corner of our national life, where the poor and the defenseless suffer; many months of patient investigation went into it; it had the unanimous approval of six Commissioners, two of them white Southerners and one a Negro; it offers some thoughtful recommendations and it dares even to imply some criticism of that sacred cow, the FBI. It is heart-breaking to see how meagerly it has been covered by most papers, how quickly it is being brushed under the rug. No phrase carries more opprobrium in the United States than "police state practices", none brings forth more firmly conditioned reflexes from editorial writers and commentators. But no burst of indignation has greeted this report on police state practices in our own country, behind that other iron curtain which shuts off from view the realities under which the Negro lives in the rural South and in Northern slums.

Keeping Them In Line By Fear

Eleven "typical cases of police brutality" are reported by the Commission (one of them is reproduced in a box on the next page) and there are many others in the extensive footnotes. Plutarch tells us how the Spartans terrorized and humiliated their helots, weeding out the spirited, to keep their slaves in line; the "uppity" Negro is a target in the South for the same reasons. The police brutality is not "senseless." There is a cold racial logic behind it: to maintain the Negro in subservient status as a source of cheap labor. As Sheriff Z. T. Mathews of Terrell County, Georgia, told reporter Robert Baker of the *Washington Post,* after the fatal beating of James Brazier, a Negro, by two police officers in 1958, "there's nothing like fear to keep niggers in line." In the beating to death of Bobby Hall by Sheriff Claude M. Screws of Baker County, Georgia, an FBI agent testified at the Sheriff's trial, "Mr. Screws . . . told me that he had had trouble with Bobby Hall, that he seemed to be a leader . . . when a Negro got in trouble with the law that he, Bobby Hall, would advise him." So in the case of Brazier, fatally beaten before his wife and four children, it was said that he was "uppity." A year after the killing Sheriff Mathews told his widow, "I oughta slap your damn brains out. A nigger like you I feel like slapping them out. You niggers set around here and look at television and go up North and come back and do to white folks here like the niggers up North do, but you ain't gonna do it. I'm going to carry the South's orders out like it oughta be done."

Since the brutality serves the purposes of the dominant race, it is not surprising that the police are rarely punished and often promoted. One of the two officers who beat Brazier to death was promoted to Chief of Police in Dawson City, Georgia; no state or local action was ever taken against the killers and a Federal grand jury refused to indict. In the Bobby Hall killing, white eye-witnesses made it possible to convict Sheriff Screws in a Federal prosecution but the Supreme Court reversed the decision in a landmark decision which must fill Negroes with despair. In it a badly split Court held in effect

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New Light on the Mack Parker Lynching

We want to call the attention of the Negro community to certain revelations about the Mack Parker lynching in the new Civil Rights Commission report on "Justice." These have not been reported in the newspapers and indeed the Commission itself passes over them without comment. Almost two and a half years ago New York State's two Senators, Javits and Keating, were assuring Harlem (June 7, 1959; the former over WPIX; the latter, over WOR) that the FBI had pulled out of the Parker case because it found no violation of Federal law. Now, at page 42 of its newly released report on "Justice", the Civil Rights Commission says (1) "The Department of Justice has not closed the case" and (2) "There is evidence that the lynching took place with the cooperation of jail officials who had the duty to protect Parker." Earlier efforts to obtain indictments were under the Federal anti-kidnapping statute and failed for lack of proof that Parker was still alive when taken across the State line by his killers. But if there is now evidence that jail officials cooperated with the mob, as indeed was rumored at the time, prosecution is possible under Section 242 of the Civil Rights Act. If a Federal grand jury will not indict, as one in Biloxi, Miss., refused to do in January, 1960, the Justice Department can bypass the grand jury and proceed to trial by filing an information. Violations of 242 are only misdemeanors, and do not require indictments. A footnote on page 111 of the report says "An information has been used by the Department of Justice only once and then successfully." The FBI, this new report confirms, "not only identified many of the members of the lynch mob but also secured admissions from some of them." This was one of those rare occasions when the FBI has done a thorough job in a civil rights case. A Sheriff and two deputies were successfully prosecuted in Georgia a decade ago in the Lynch case (189 F2d 476) under similar legal circumstances and their convictions upheld on appeal. We urge the Negro community to demand action against Parker's killers.

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that police officers who kill Negroes are guilty of violating the Federal Civil Rights Act only if there was "specific intent" to deprive the Negro of his constitutional rights. If the killing was done in hate, meanness, spite or just plain fun, it doesn't count, at least not in the Federal courts. In a new trial Sheriff Screws was then acquitted and in 1958 he was elected to the State Senate of Georgia.

Fear of The Southern Oligarchy

The Department of Justice has not been too energetic in civil rights cases, for these bring it into conflict with the Southern oligarchy in Congress. Frank Murphy, who cared deeply about basic rights, established the first Civil Rights Section of the Department in 1939 and Congress elevated it to a Division in 1957. The new report says "The Truman Committee wrote of the Civil Rights Section in 1947 that 'the total picture . . . is that of a sincere, hard-working, but perhaps overcautious agency.' This same statement would fairly characterize the Civil Rights Division today in its efforts against unlawful official violence." This is putting it gently. Since its establishment, the report points out, the Division has obtained convictions or nolo contendere pleas in only six police brutality cases, "not" the report comments, "an impressive statistical record for a period of over three years." Inquiry by this writer disclosed that only one of these six successful cases was racial, involving the brutal beating of an Indian in Idaho. Though four of the six cases were in the South, none involved Negroes. As a matter of fact no police officer has been convicted of brutality to Negroes since two Sheriffs, one from Texas and the other from Alabama, pleaded guilty after indictment in 1955. There has not been a conviction in a police brutality case, white or colored, for more than two years, since Oct. 30, 1959, though more than 1300 complaints were received and 52 prosecutions authorized in the two and a half years from Jan. 1958 to July, 1960. This is not much of a record.

A major reason for the poor record lies in the attitude of the FBI on which the Department depends for investigation of civil rights complaints. One of the virtues of this report is that it lifts the curtain, however queasily, on this untold aspect of the story. The first hint of this appeared in a footnote to the report of Truman's Committee on Civil Rights in 1947 which said there was "evidence" that the FBI considered civil rights investigations "burdensome." Footnotes* on pages 213-15 of this new report give excerpts from an exchange of letters between J. Edgar Hoover and Attorney General Tom Clark which Civil Rights Commission staff members dug up in the Harry S. Truman Library in Independence, Mo. In a letter dated Sept. 24, 1946, Mr. Hoover complained to the Attorney General that "as a result of the aggressiveness of pressure groups or as a result of newspaper stories" the FBI was being forced to expend "a considerable amount of manpower investigating murders, lynchings and assaults, particu-

Ex-FBI Man Explains

"In 1961 a [Civil Rights] Commission staff member interviewed a former FBI agent who had served with that agency for many years, but who, in his capacity at the time of the interview, handled certain complaints of civil rights violations, including police brutality. The Commission staff member's field notes state:

" 'I asked him why he did not refer the complaints to the FBI, especially since he was formerly a special agent. Mr. [name withheld] stated that he does not turn civil rights cases over to the Bureau [Federal Bureau of Investigation—FBI], because they don't like them. He explained that it is very embarrassing to agents to have to investigate police department officials in the morning and then enlist their cooperation on other cases in the afternoon. He stated that the Bureau distributed a monthly bulletin to police departments all over the country and makes no secret therein of the kind of information in which the FBI is interested, i.e. kidnapping, bank robberies, but never civil rights. He stated that the Bureau feels that civil rights shouldn't even be in there."

—Justice, U. S. Commission on Civil Rights report, Nov. 17, footnote on page 219.

*** It is indicative of the FBI's untouchability and the timidity of its critics that such crucial matters are relegated to the obscurity of footnotes.**

The Tragic Story of the Negro War Veteran and the Alabama Police Chief

"The shooting of a Negro in Alabama: 1960.—The following are excerpts from a statement by Theotis Crymes, an Alabama Negro:

" 'I am a veteran. I served in the Armed Forces of the U.S. for six years. I have a wife and three small children. But after having been shot in the back by an officer, I have been paralyzed for life, and am now confined to a wheelchair. I tell my story in the hope that somewhere in America something can be done to help me and other victims of injustice.

" 'On the night of March 19, 1960, I was driving home from Bessemer, Alabama, to Montevallo, a distance of about 20 miles. I was driving about 60 miles an hour. A friend and neighbor, James Morrow, was with me. When we passed through Helena, Alabama, I noticed a car some distance behind us, but paid no attention. After driving about 4 miles further, this car caught up with me and bumped into my car from behind, almost knocking my car off the highway. I pulled over and stopped. The other car stopped right behind me, a red light flashing on the top. It was not flashing when it was following me and when it hit me.

" 'I got out of my car and an officer came up after me and would have struck me with his gun, but I threw up my hands to keep from being struck. I asked what this was all about, and what I had done. He then asked if I had any whiskey in my car and I told him no. He made me put my hands up on his car, and he began to search me. And while I was standing with my hands up on his car, he shot me in the back, paralyzing me from the waist down. My friend, James Morrow, had gotten out of my car on the same side where we were standing. But a white man in plain clothes who was with the officer, got out and pointed a carbine rifle at him and made him get back into the car. I had fallen on my back in the highway.

" 'I looked up at the officer and asked him why he shot me down like this. He only said "Shut up, Nigger".'

"The officer who shot Crymes was the Chief of Police of Helena, Alabama. After an FBI investigation the Department of Justice authorized a Civil Rights Act prosecution. A Federal grand jury in Alabama returned an indictment. At his trial the Police Chief claimed that Crymes advanced on him with a knife and that he shot the Negro in self-defense. Crymes denied this. The trial jury acquitted the police chief.

"This case presented an important related problem. Being a veteran and now disabled, Crymes applied to the Veterans Administration for a pension. His application was rejected because, according to the Montgomery office of the Veterans Administration, Crymes' disability was the result of his 'own wilful misconduct.' This action was taken before it was known that a Federal grand jury had found sufficient evidence to warrant indictment of the Police Chief. Subsequently, the claim was reviewed; a field investigation was ordered; and the pension awarded because the 'Montgomery Regional Office . . . determined that Mr. Crymes was innocent of wilful misconduct in the shooting incident resulting in his severe permanent injuries'."

—Civil Rights Commission Report: Justice, pps. 22-3.

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larly in the Southern States" where it was improbable that violations of Federal laws had occurred. Mr. Hoover felt this hurt the "prestige" of his Bureau. Attorney General Clark replied the same day (the fusillade of formal letters seems to reflect frigid relations between them on the subject) that while many such investigations proved fruitless "If we do not investigate, we are placed in the position of having received the complaint of a violation and of having failed to satisfy ourselves that it is or is not such a violation." The Commission's investigators failed to notice that this exchange occurred just two months after four Negroes were lynched by a mob in Monroe, Georgia, and one month before Attorney General Clark announced that he was ordering a Federal grand jury investigation. Had Mr. Hoover been opposing an FBI inquiry into the Monroe, Ga., lynchings? The new report leaves the question unanswered. It says only (footnote 134, page 215), "Such discussions between the incumbent Attorney General and the Director of the FBI regarding Bureau investigation procedure in civil rights cases continued into subsequent years."

Negro Rights Expendable

This delicate subject is treated in the text of the new report with the tactful and apologetic circumspection accorded the lamentable weakness of a reigning monarch. "It has been reported, from time to time," the Civil Rights Commission says (at p. 61),

that the Bureau has little enthusiasm for its task of investigating complaints of police brutality [here there is a footnote which we reproduce in a box at the top of page two]. If the contention is accurate, the fact is, to some degree, understandable. The Director has used the strongest language to stress the need for cooperation between the Bureau and law enforcement officials at all levels. Apparently without this cooperation the FBI could not maintain the excellent record it now enjoys in the enforcement of a long list of Federal criminal statutes. Although the Bureau states that it "has not experienced any particular difficulty or embarrassment in connection with investigation of police brutality," there is evidence that investigations of such offenses may jeopardize that working relationship. The very purpose of these investigations is to ascertain whether or not State or local officials have committed a Federal offense. Even though the allegations may later prove groundless, the investigation of them may place the FBI in a delicate position.

The plain meaning of this is that the civil rights statutes, like the Negro they were supposed to protect, are relegated to secondary status, expendable items in the chase for bank robbers and stolen cars.

A careful reading of the report and the footnotes shows that the FBI's procedure in handling civil rights complaints is hardly zealous. In most cases the FBI field office forwards the complaint without preliminary investigation in so bare a form that it "frequently lacks those minimal facts required to determine if a violation occurred or even if there is a need for a preliminary investigation." The complaint goes to the Civil Rights Division and is assigned to an attorney. If he wants a preliminary investigation "this must be cleared through his section chief, a higher Division official, and Bureau headquarters in Washington." This leads to "time-consuming" delays; here another of those footnotes whispers, "It has been claimed that delays have afforded guilty officials the opportunity to intimidate complainants and witnesses." If a preliminary investigation is ordered, "At the outset, the FBI contacts the head of the agency and advises him of the complaint which has been received and that investigation is being ordered." This advance notice, the Civil Rights Commission objects, "can jeopardize a section 242 [Civil Rights] case. Police force superiors may adopt an unduly protective attitude toward their officers. They may share the racial prejudices of their subordinates and of their communities."

Like Living Under A Dictatorship

"'I was born in North Carolina and raised in the Hills of Eastern Tennessee, and I am in favor of the Civil Rights statutes but must live with this as silent as the grave. I see my clients beat, abused and run over all the time and there is nothing much I can do, because when I try in Federal Court, I wind up with the hell beat out of me.'

"Communication dated March 18, 1961, and received at the Commission on April 17, 1961, in response to a questionnaire sent to attorneys in connection with the survey on complaints of police brutality. The attorney a white man added, 'Please do not expose me on this thought'."

—Justice, U. S. Commission on Civil Rights report, Nov. 17, page 69 and footnote, page 227.

They Would Have Notified Faubus

So exquisite is the FBI's empathy for peculiar regional mores that "In 1959 a case of an allegedly unjustified killing of a Negro by a State policeman was closed because of the [Civil Rights] Division's reluctance to have the Bureau [FBI] notify the Arkansas Governor of a civil rights investigation during the tense school situation in Little Rock." Apparently the FBI would have refused to investigate the case without first notifying Governor Faubus. There are even, the report notes, "some victims of violence who distrust FBI agents, believing them to be in league with local officers." But, the report goes on to say stanchly, "the Bureau cannot, on their account, resign its heavy responsibilities in those fields of Federal law enforcement that requires its close association with local officials." This sounds as if it was revised by the FBI before publication.

The report recommends three main reforms, a change in Section 242 of the Civil Rights Act to remove the stumbling

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What Does Getting to the Moon First Matter, When We Behave So Badly on Earth?

"Some white men in very recent years have kicked, beaten, or shot a Negro to death and have not even been indicted because of a jury's prejudice or a legal technicality. . . . These people who are trying to pervert our Western ideal of the dignity, the freedom and the rights of every human person are not Communists. They are Americans, but white Americans denying what they enjoy, and I trust cherish, to Negro Americans. . . .

"What can we expect for the future, if one-tenth (and predictably at the end of this century, one-fifth) of our population are second-rate citizens, getting a second-rate education, living in second-rate houses, doing all of the second-rate jobs for second-rate pay, and often enough getting second-rate justice? . . .

"Personally I don't care if the U.S. gets the first man on the moon, if while this is happening on a crash basis, we dawdle along here on our corner of the earth, nursing our prejudices, flouting our magnificent Constitution, ignoring the central moral problem of our times, and appearing hypocrites to all the world. . . .

"If these remarks seem intemperate, the facts support them. . . . Unless there is some fire, most governmental reports remain unread, even by those to whom they are addressed: in this case the President and the Congress. . . ."

—Personal statement filed by the Rev. Theodore M. Hesburgh, president of the University of Notre Dame, member of the U. S. Civil Rights Commission, in its report on Justice, released Nov. 17.

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FBI Chief Prefers to Curry Favor With Southerners in Congress

Hoover Could Do More Than Anyone Else to End Police Brutality

block of the "specific intent" requirement set up by the Screws case; another change to make it possible to sue cities and counties for damages in police brutality cases; and grants-in-aid to improve police training. But the man who could do most in this situation is J. Edgar Hoover. Three Federal inquiries in the past generation have shown that police brutality is widespread, and not confined to Negroes, Mexicans and Indians: the Wickersham Commission report in 1931, the Truman Committee in 1947 and now this Commission in 1961. In all these years Mr. Hoover has been head of the FBI, in charge of police training programs through the FBI's National Academy. The FBI, whatever its faults, has been trained to avoid rough stuff. Its example and Mr. Hoover's admonitions, if they were forthcoming, could do a great deal to make the brutal cop a shunned exception. But though the magazines and newspapers are full of articles in which he holds forth on juvenile delinquency, smutty books, Communism, hitch hikers and other of his favorite menaces, we do not ever remember his speaking out on the dangers of racism or the disgrace of police brutality. Commission attorneys reviewed the FBI Law Enforcement Bulletin from January 1956 through August 1961 and found only one item dealing with civil rights, a piece by Roscoe Drummond flattering to the FBI.

Few Complaints Ever Pressed

The Commission might have found it useful to study Mr. Hoover's annual appearances before the House Appropriations Committee. The hearings during the last ten years show not a single occasion on which Mr. Hoover has spoken against police brutality or for civil rights. On the contrary his presentation has been calculated to curry favor with the Southerners and reactionaries on the Committee. On one occasion he warned against Communist exploitation of the sitdown movement; on another he assured the Committee that civil rights cases are handled only "by mature special agents" (1959 hearing on the 1960 budget). The figures he gave on three occasions showed how very few complaints against police officers result even in prosecution. Mr. Hoover has made it clear that the FBI acts in civil rights cases only because ordered to. Finally it is a pity that the Commission, in recommending prosecution by information (see box on page one) where Federal grand juries refuse to indict in Section 242 cases, fails to mention the biggest obstacle to this approach. It would require the FBI to sign the supporting affidavit. This the FBI does not want to do, for it would make it look like a crusader on civil rights. It prefers to crusade on safer subjects and against easier menaces.

"But the Bombers Might Have Been Police!"

"Police connivance in lynching or in milder forms of private violence is less frequent now than in the past. Yet it lives on in the memory of thousands of Negroes and reinforces the deep fear that 'lightning' may strike again. For many Negroes this raises a question of profound importance: When it strikes will the police help me or will they help the mob? . . .

"In the late 1950s a member of the Commission's Alabama Advisory Committee was awakened in the middle of the night by a telephone call from a Negro woman who lived nearby. 'Somebody just threw a bomb and took off the side of our house. What shall I do?' The Committee member replied, 'Call the police right away and get them out there!' The woman said: 'I can't call the police. It might have been the police that threw the bomb. If they find out we're not dead, they might come back and throw another bomb.' The point is not that police officers threw the bomb, but that the instinctive reaction of one American citizen was that they might have had some connection with the attack."

—Civil Rights Commission Report: Justice, p. 43.

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